

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-868 (Sub-No. 1X)

MISSISSIPPI TENNESSEE HOLDINGS, LLC—ABANDONMENT EXEMPTION—IN
HARDEMAN COUNTY, TN AND TIPPAH AND UNION COUNTIES, MS

Decided: December 10, 2008

Mississippi Tennessee Holdings, LLC (MTH) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon: (1) an approximately 19.55-mile rail line extending between approximately milepost 367.65 in Middleton, Hardeman County, TN, and milepost 348.1 in Ripley, Tippah County, MS, and (2) an approximately 1.36-mile rail line between milepost 325.56 in New Albany, Union County, MS, and milepost 324.2 in Union County, MS, a total distance of approximately 20.91 miles. Notice of the exemption was served and published in the Federal Register on September 28, 2006 (71 FR 57020-21), as corrected in a decision served on March 20, 2007.¹ The notice provided that, if consummation of the abandonment had not been effected by MTH's filing of a notice of consummation by September 28, 2007, and there were no legal or regulatory barriers to consummation, the authority to abandon would automatically expire. See 49 CFR 1152.29(e)(2). By decision served on November 16, 2007, the Board granted MTH's request to extend the deadline for consummation of the abandonment as to the 1.36-mile segment until September 28, 2008.²

By decision and notice of interim trail use or abandonment (NITU) served on June 25, 2008, the proceeding was reopened and a 180-day period was authorized for GM&O Rails-to-Trails Recreational District of North Mississippi (GM&O) to negotiate an interim trail use/rail banking agreement with MTH for the approximately 1.36-mile segment between milepost 325.56 and milepost 324.2, until December 22, 2008. In this decision, the Board is granting GM&O's request to extend the NITU negotiating period for a .03-mile segment of that rail line until June 20, 2009.

¹ In STB Docket No. AB-869 (Sub-No. 1X), Mississippi Tennessee Railroad, LLC—Discontinuance of Service Exemption—in Hardeman County, TN and Tippah and Union Counties, MS, Mississippi Tennessee Railroad, LLC (MTRR) filed a notice of exemption under 40 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service for MTRR to discontinue service over the same lines described above. Notice of the exemption was served and published and later corrected along with MTH's notice.

² On June 15, 2007, MTH and MTRR filed a notice stating that MTH had consummated abandonment and MTRR had consummated discontinuance of rail service over the 19.55-mile line originating in Tennessee.

On November 17, 2008, GM&O filed a letter stating that a rail banking and interim recreational trail use agreement has been reached between MTH and GM&O for the portion of the right-of-way segment between milepost 325.53 and milepost 324.2, a distance of 1.33 miles. GM&O indicates that the agreement did not include .03 miles of right-of-way at or near New Albany, between milepost 325.56 and milepost 325.53. GM&O requests an extension of the NITU for the remaining .03-mile portion of the line for 180 days from December 22, 2008. MTH concurs with the request.

Where, as here, the carrier is willing to continue trail use negotiations, the negotiating period may be extended.³ An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the NITU negotiating period will be extended for an additional 180 days, until June 20, 2009.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. GM&O's request to extend the NITU negotiating period for the .03-mile portion of the right-of-way at or near New Albany, between milepost 325.56 and milepost 325.53, is granted.
2. The NITU negotiating period for that portion of the right-of-way is extended until June 20, 2009.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan
Acting Secretary

³ See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987).